

## REMARKS

1        Claims 6-9, 11, 14, 18, 23, 25 and 26 have been  
2        presented for examination in the above-identified U.S.  
3        Patent Application.

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5        Claims 6-9, 11, 14, 18, 23, 25 and 26 have been  
6        rejected in the Office Action dated March 7, 2007.

7  
8        Claims 6, 7, 9, 11, 14, 18, 23, and 25 have been  
9        amended in the instant Office Action.

10  
11       Claim 27 has been added by this Amendment B.

12  
13       Claims 6-9, 11, 14, 18, 23, and 25-27 are in the  
14       Application and reconsideration of the Application is  
15       hereby respectfully requested.

16  
17       Referring to Paragraph 2 of the Office Action, Claims  
18       6-9, 18, 23, 25, and 26 have been objected to because of  
19       informalities kindly pointed out by Examiner. It is  
20       believed that each of the informalities pointed out by  
21       Examiner has been amended by this Amendment B. Therefore,  
22       objection to the Claims for reasons stated in Paragraph 2  
23       have been answered by amendment.

24  
25       Referring to Paragraph 3 of the office Action, the  
26       drawings have been objected to because of a typographical  
27       error pointed out by Examiner. Transmitted along with this  
28       Amendment B is a replacement drawing correcting the

1 typographical error found in the previously submitted  
2 drawings. Therefore, objection to the Figures has been  
3 answered by amendment.  
4

5 Referring to Paragraph 6 of the Office Action, Claims  
6 6-9, 11 and 14 have been rejected under 35 U.S.C.103 (a) as  
7 being unpatentable over U.S. Patent No. 6,243,572 issued in  
8 the name of Chow et al (hereinafter referred to as Chow),  
9 in view of U.S. Patent No. 6,646,993 issued in the name of  
10 Davies et al (hereinafter referred to as Davies). Referring  
11 to Paragraph 7, Claims 18 and 23 have been rejected under  
12 35 U.S.C. 103(a) as being unpatentable over Chow, cited  
13 above, in view of Davies, cited above, in further view of  
14 U.S. Patent No. 6,031,867 issued in the name of Johnson et  
15 al (hereinafter referred to as Johnson). Referring to  
16 Paragraph 8, Claim 25 has been rejected under 35 U.S.C.  
17 103(a) as being unpatentable over U.S. Patent 6,671,292  
18 issued in the name of Haartsen (hereinafter referred to a  
19 Haartsen), in view of U.S. Patent Publication US  
20 2002/0001317A1 issued on the name of Heering (hereinafter  
21 referred to as Herring). Referring to Paragraph 9 of the  
22 Office Action, Claim 26 has been rejected under 35 U.S.C.  
23 103(e) issued the name of Haartsen (cited above), in view  
24 of Heering (cited above) and in further view of Davies  
25 (cited above).  
26

27 One of the problems in the Office Action is that  
28 Examiner has taken a somewhat liberal view of the term  
29 "update". In some of the references, most apparently in  
30 the Haartsen reference, the responses of the receiving unit

1 are automatic. For example, in the decoding operation in  
2 Haartsen, the header of the packet defines an activity  
3 already available in the processing unit. It is inaccurate  
4 to say that processing unit has been updated when in fact  
5 the procedure is already stored in the processing unit. The  
6 transmitted signal of the reference does not update the  
7 receiving unit, but selects an activity already available,  
8 even if not activated. Similarly, the Chow reference does  
9 contain a programmable processor. However, the Chow  
10 reference does not disclose a technique for "updating" the  
11 programming, but rather provides a technique for selecting  
12 programming already available (or providing parameters for  
13 the programming already installed in the processing unit).

14  
15 Before discussing the relationship of the references  
16 to the present invention, the invention, as described by  
17 the amended Claims, will be summarized. A reference  
18 transmitter transmits a message that can be decoded and  
19 processed by the receiver unit. The receiver unit  
20 determines when the decoding programming, used to decode  
21 the incoming signals, is available. In other words, the  
22 incoming signal stream is analyzed to see if the proper  
23 programming has already been installed by the processing  
24 unit. The programming may be included in the signal stream  
25 in which case it is installed in the processing unit. When  
26 the programming to decode the incoming message has not been  
27 installed in the receiving unit, then the receiving unit  
28 has several options to receive the updated decoding  
29 programming that will permit the received signal to be  
30 decoded.

1        Referring first to the Chow reference as it applies to  
2 independent Claims 6 and 11, the Chow reference relates to  
3 the movement of a wireless device between subscriber areas.  
4 As a subscriber moves from area to area, the different  
5 frequencies are used to communicate between the  
6 subscriber's wireless device and the area's station  
7 transmitter/receiver unit. The Chow apparatus allows the  
8 subscriber unit and the station to interact in preselected  
9 ways. However, the gating function is a "mobile  
10 identification number". This identification number does  
11 not result in any kind of reprogramming or updated  
12 programming but, in fact, merely selects the capabilities  
13 for the current operating condition. In no way can this be  
14 considered as changing the programming of the subscriber  
15 unit, but rather enables a preselected activity to be  
16 performed. Referring to the Davies reference, a decoding  
17 procedure is described in which the information necessary  
18 to adjust the decoding is included with the transmitted  
19 signals. While this may be an elementary decoding  
20 technique, what is missing vis-à-vis the invention  
21 described in the present Application is a procedure wherein  
22 the receiving unit determines if the appropriate decoding  
23 algorithm is available. The importance of this  
24 determination is that, when the appropriate decoding  
25 algorithm is not available, then, apparatus is disclosed  
26 which can request the correct decoding algorithm be  
27 installed. As is clear, the Chow reference and the Davies  
28 reference do not, either together or separately, describe  
29 apparatus wherein a determination is made if a particular  
30 (decoding) algorithm is present. Indeed, the rejection

1 appears to be stated with the benefit of hindsight using  
2 the disclosure of the present application to serve as a  
3 template to associate elements in the reference with the  
4 disclosed invention. Therefore rejection of Claims 6 and  
5 11 under 35 U.S.C. 103 (e) is respectfully traversed.

6  
7 Claim 18, the next independent Claim, has been  
8 rejected under 35 U.S.C. 103(e) as being unpatentable over  
9 Chow in view of Davies in further view of Johnson. The  
10 problems associated with a rejection under Chow and Davies  
11 have been described above. With respect to Johnson  
12 reference, this reference discloses a technique for  
13 updating the parameters of a modem. A remote processing  
14 unit provides updates to a local processing unit. The  
15 local processing unit then updates the modem. At no time  
16 is a decision made as to whether the updates are already  
17 present in the modem. As a practical matter, the result is  
18 derived from the fact that all the modems of the system  
19 should be updated together. Therefore, once an update of  
20 the system modems is initiated, the updating process should  
21 continue without interruption. Therefore, the Johnson  
22 reference does not overcome the deficiencies in the  
23 references of Chow and Davies. Consequently, the rejection  
24 of Claim 18 under 35 U.S.C. 103 (e) and being unpatentable  
25 over Chow in view of Davies in further view of Johnson is  
26 respectfully traversed.

27  
28 Referring to independent Claim 25, Claim 25 has been  
29 rejected under 35 U.S.C. 103(e) as being unpatentable over  
30 Haartsen in view of Heering. As indicated above, the

1 Haartsen reference does not provide an "update" of the  
2 (software of) the receiver processing unit, but rather  
3 selects a program or imposes a parameter in the software of  
4 the receiver processing unit. In the Haartsen reference,  
5 no new (i.e., updated) procedure is transmitted to the  
6 receiver processing unit, but rather, a previously  
7 installed procedure is enabled. Therefore, the rejection of  
8 Claim 25 under 35 U.S.C. 103(e) as being unpatentable over  
9 Haartsen in view of Heering is respectfully traversed

10  
11 As indicated above, the rejection of Claims 6, 11, 18,  
12 and 25, the independent Claims remaining in the Application  
13 are believed to be in condition for allowance.

14  
15 Consequently, Claims 7-9, 14, 23, 26, and 27,  
16 dependent there from are believed to be in condition for  
17 allowance.

## 1

3 In view of the foregoing discussion and the foregoing  
4 amendments, it is believed that Claims 6-9, 11, 14, 18,  
5 23, and 25-27 are now in condition for allowance of and  
6 allowance of Claims 6-9, 11, 14, 18, 23, and 25 through 27  
7 is respectfully requested. Applicant hereby respectfully  
8 requests a timely Notice of Allowance be issued for this  
9 Application.

11           Should any issues remain that could be resolved by a  
12   telephonic interview, Examiner is requested to telephone  
13   the undersigned attorney.

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